

**JAMUL DULZURA
COMMUNITY PLANNING GROUP
FINAL MINUTES
Tuesday, July 13, 2010
(Approved July 27, 2010)
Oak Grove Middle School Library
7:30 pm**

1. **Call to Order:** Dan Kjonegaard called the meeting to order at 7:30 p.m.
2. **Roll Call Present:** Dan Neirinckx, Randy White, Wythe Davis, Michael Casinelli, Frank Hewitt, Janet Mulder, Steve Wragg, Yvonne Purdy-Luxton, Earl Katzer, and Dan Kjonegaard

Absent: James Talbot,

Excused: Krishna Toolsie, Jonathan Shultz, Judy Bohlen, Dale Fuller,
3. **Motion to approve the Agenda for July 13, 2010 as posted 72 hours before the meeting and the Minutes for June 22, 2010 as corrected by Michael Casinelli as follows...in Open Forum under “b” the minutes should reflect that no drawings were presented at the meeting however the drawings were presented to Michael a few days after the meeting and that the fence has barbed wire not razor wire as reflected in the minutes. Motion carried unanimously.**
4. **Open Form - Opportunity for public to speak on any item not on the agenda - limit 3 minutes**
 - a. **Michael Casinelli will be absent 7/27.**
 - b. **Wythe Davis and Dan Neirinckx will be absent at the 7/27 meeting.**
 - c. **Dan Neirinckx** reminded us all that this is the fire season and that the fire today in Dulzura off of Little Tecate Road was under control quickly.
 - d. **Yvonne Purdy-Luxton** announced that **August 1** is the annual **Dulzura Bar-B-Que at Camps Grove** from noon to 6 p.m. and **Saturday, July 17** is the date of the **CERT Drill** and they still looking for people to play victims.
5. **TPM 21028 RPL4 Skyline Truck Trail Subdivision, APNs; 522-081-01/04 & 522-251-13 –Glass - Dan Neirinckx** reporting that primary items mitigated were biology with open space and the applicant’s engineer told Dan that they were working on the design for the opening that will be at least 40 feet wide and follow County Road Standards which means that they have to flare out on both sides for approximately 60-70 feet tapering back. It ends up being a mitigated negative dec for the 4 parcels plus the remainder parcel of 45 acres. It has one building site on the remainder. **Dan** has no adverse comments to the negative dec. No action taken.

6. Alternatives for Community Representation – Dan Kjonegaard

Dan reported that he attended the meeting on June 26 and gave the following report: In February of 2010, the County received a letter from the California Fair Political Practices Commission (FPPC) stating that County of San Diego Community Planning and Sponsor Group members must be treated as public officials; are now subject to the provisions of the Political Reform Act; and the County must adopt Conflict of interest codes for Groups.

- A. At the March 23, 2010, BOS Hearing, in response to the FPPC letter, the Board of Supervisors (BOS) adopted conflict of interest codes for all Community Planning and Sponsor Groups and directed DPLU staff to work with Community Groups on identifying alternative forms of community representation that will reduce liability to both the County and Group members.
- B. At this time, DPLU will like to provide background information on what issues surround the adoption of conflict of interest codes; provide information on what has changed for Group members with the adoption of these conflict of interest codes; and discuss what the next steps are moving forward. With this background information, members could then return to their respective groups, discuss then prepare comments/suggestions on identifying alternative forms of community representation and ways of reducing liability for groups and the County.
- C. In June of 1992, the FPPC sent a letter to Lloyd Harmin of County Counsel stating that Group members are considered public officials and are subject to the disclosure and disqualification provisions of the Political Reform Act. However, the Current County Counsel, unaware of this letter, has been operating under the impression that Community Group members are not public officials and, therefore, are subject only to BOS Policy I-1 and I-1A.

In determining that members are public officials, the FPPC applied a 4 part test:

- 1. Whether the impetus for formation of the entity originated with a government agency;
 - 2. Whether the entity is substantially funded by, or its primary source of funds is, a government agency;
 - 3. Whether one of the principal purposes for which it is formed is to provide services or undertake obligations which public agencies are legally authorized to perform and which, in fact, they traditionally have performed;
 - 4. Whether the entity is treated as a public entity by other statutory provisions.
- D. County of San Diego Community Planning and Sponsor Groups meet all four (4) factors and are therefore considered public officials per the FPPC.
 - E. Group members were and are still required to fill out the FPPC Form 700 Economic Disclosure statements. However, with the designation of Group members as public officials and the adoption of conflict of interest codes,

Planning and Sponsor Group members have now become subject to the provisions of the Political Reform Act, a State law. Whereas previously, Group members were subject to only BOS Policy I-1 and I-1A, which, as County Counsel pointed out, a main reason for the low number of lawsuits against Community Group members in the past. County Counsel suggested that since members are now considered public officials and are subject to the Political Reform Act and conflict of interest laws there could possibly be more lawsuits filed against the County and/or Community Groups in the future.

- F. Furthermore, the County District Attorney (DA) is now able to enforce Brown Act and Conflict of interest Code violations, which could also result in fines or criminal prosecution. Whereas previously, the DA did not attempt to prosecute Group members since they were not considered public officials and were not subject to conflict of interest codes.
- G. Group members have now become subject to potential FPPC fines and penalties (up to \$10,000), civil lawsuits, and/or criminal prosecution (misdemeanor) for noncompliance with the Political Reform Act and conflict of interest laws. Even though Group members are provided legal defense and indemnification by the County of San Diego and are subject to similar disclosure and conflict requirements under Board Policy I-1 and I-1A, those Board Policies do not include civil or criminal penalties that members are now subject to as public officials. This means that defense and indemnification may not be provided by the County in some circumstances.
- H. There are two forms of defense to FPPC conflict of interest laws.
 - 1.) Defending the decision making of Group members (i.e. voting on projects where a conflict of interest may exist) and 2) defending the reporting of income and gifts by Group members (not accurately reporting all forms of income/property). County Counsel informed the Group members that, like the Group members, County Counsel does not provide defense for the BOS on issues involving the reporting of gifts and/or income.

I. Conflict of Interest Code

Under the Political Reform Act, a public official may not take any part in a governmental decision in which the official has a disqualifying conflict of interest.

- J. Costs:** DPLU spend roughly a \$375,000 a year Community Group support.

K. Suggestions from Attendees:

- a. Multiple attendees recommended mandatory online trainings (Ethics, Brown Act, conflict of interest codes, and Discretionary Review Process) with certificates given for completion and more education in general for group members to make them aware of the laws and requirements.
- b. Chair meetings: work with chairs on Brown Act, conflict of interest, planning process, etc., then the chairs can inform their members.

- c. It was also suggested that Planning Group members be given the same rights and responsibilities as all County of San Diego elected officials subject to conflict of interest codes.

L. Next Steps

With this background information provided, members can return to their respective groups, discuss, and begin preparing comments/suggestions on alternative forms of community representation and ways of reducing liability.

Dan pointed out that every person in the meeting felt that it would be beneficial to keep the Planning Groups to give a voice of representation to the people. **Randy White** suggested that Planning Group members need to follow the rules and if they do not, then it is their responsibility. **Randy** also suggested that we might look at forming a Town Council in each of our communities and using it as a Planning Group. **Randy Lenac** representing SORE (Save Our Rural Economy) stated that our Planning Group is unique in the professional way we handle our meetings. He pointed out that some Planning Groups are really kangaroo courts and do not follow the rules which makes it difficult for DPLU to back them up. **Randy White** suggested that if the Planning Groups are eliminated, then the Supervisor whose district the development is in would need to meet in those communities at the time of normal planning group meeting times to hear the public input on each project and take it to the DPLU Planners. It would be cumbersome at best.

7. **Community Evacuation Route Study – Judy Bohlen** was absent, so item was postponed to next meeting.
8. **POD10-007 Wind Turbine System Revision – Dan Neirinckx reporting:**
Assembly Bill 1207 was repealed in 2006 and this ordinance removes any referrals to that bill. The new definition of a wind turbine changes a medium size installation to one of up to five wind turbines with a blade sweep area no more than 850 square feet. The large system consists of installation one to five turbines with a blade sweep of more than 850 square feet. Large systems need to be on at least five acres and a major use permit. The medium size turbine system will require an administrative permit and the small wind turbine system will be allowed in residential and agricultural uses of at least one acre and must adhere to the setback, height, noise, and fencing requirements.
9. **General Plan Update Ordinance Consistency Review – Dan Neirinckx**
At the meeting held last week TDR (transfer development rights) were covered and there seems to be some backing on the Planning Commission for those properties that have been downzoned and that they would be compensated in some manner – not determined at this point. **Randy Lenac of SORE** stated that the County does not wish to do this (compensating the downzoned property) and this program is unworkable. Unfortunately there are programs in use around the nation that would work, but the County has determined not to use them. **Steve Wragg** stated that the County is trying to set the costs on the property. **Dan Neirinckx** reported that the zoning

line on the old El Coyote and Button properties along SR94 were revised to coincide with the owner's and PG's recommendations. The County also agreed to make a change to the Katzer property, which would basically eliminate the residential and make it all commercial. This will come before the BOS at a future meeting with our recommendation going forward as DPLU's recommendation. DPLU has agreed to meet with Dan and go over the other property that we recommended changes on, and will listen to our arguments and base their decision on that meeting.

10. **Save Our Rural Economy Briefing – Randy Lenac** was introduced by **Dan Neirinckx**. He has been working trying to educate the people and influence the supervisors as to the disadvantage of downzoning the backcountry. Their argument is that if this plan were passed with the drastic density downzoning it would spell financial disaster for the individual property owners. The communities will be damaged as well because the dollars to support community services would not be there. They looked at health care, education, public safety and roads. The impacts are astounding for lost revenue for the County. Ultimately taxpayers will pick up the tab. It all started with the lawsuit to keep our back county rural. Mr. McKentrick of SOFAR took it to the voters twice and it failed both times, and SOAR decided they needed to come up with an alternative that would restore some of the density for equity, and create an incentive for property owners to transfer that density to another area through a TDR.

A plan has been done in Maryland where farmers were compensated for giving up their density and homeowners were glad to have it. The attitude that the property owner does not own the land, rather that you are just using it is one we need to avoid. SOAR has a power point that shows their ideas and they have shown it to all five Supervisors.

Right from the start, this density downzoning has been opposed by members of the public, but ignored by the Planning Commission. SOAR brought together a coalition of stakeholders who will approach the Supervisors asking them to have staff develop an alternative map that would be economically superior, applying more realistic densities, putting some TDRs on it, which would give an additional option that he feels that the public would support above all of the alternatives that now exist.

Dan Kjonggaard asked about the TDR plan that SORE came up with and they did have some support, but the County Staff did not present it. The plan would call for an independent bank that would broker density units and the bank would then make the exchange between the two owners. If they sell all of their property in that way, the property would become a conservation area and it would not cost the citizens anything. The solution the County has come up with requires taxpayer dollars, which would be problematic given the current financial situation. **Randy Lenac** suggests that if we feel that the density downzoning is unfair, we need to let our Supervisor know. **Steve Wragg** stated that he agrees with what Randy proposes. He feels that the reason we have not had lots of people complaining, is that the residents do not understand what they will be losing. **Randy White** suggested that if this were passed, there would be lots of lawsuits as it is inequitable. **Randy Lenac** has met with all of the members of the Planning Commission, County Staff and many others to try to put across their points.

Dan Neirinckx moved that the JDCPG support the SORE (Save Our

Rural Economy) position of a more balanced approach to the downzoning as opposed to the drastic downzoning proposed in the current General Plan Update options. He further moved that a letter be sent to all five Supervisors with a copy to DPLU, Eric Gibson. Motion carried unanimously.

11. SDG&E Jamul Proposed Substation – Jim Talbot was not present. Dan Neirinckx received an email from Joe Zulauf asking how far Otay Water went into Otay Valley. After contacting real estate people he told Joe that it looked like all of Echo Valley had water. He suggested that Joe talk to Otay's David Charles, Customer Service Manager, who could give him the correct information.

12. Jamul Indian Village Casino Status Report and Recommendations – No comments.

13.JDCPG OFFICER'S ANNOUNCEMENTS AND REPORTS

- a. Dan Kjonagaard announced** that candidate filing opened yesterday and goes through August 6. All even seats are up for re-election.
- b. Dan Kjonagaard** asked Otay to be at the August 24 meeting to discuss the appearance of the Otay Water Pump Station on Peg Leg Mine and Lyons Valley Road.
- c. Dan Neirinckx read a letter from Parks and Recreation asking for a priority list for this year.** We will discuss next meeting.
- d. Public Review of Proposed Revisions to Biological Resources Guidelines for Determining Significance and Technical Report Format and Content Requirements. Given to Yvonne Purdy Luxton and Dan Neirinckx to review and report back**

Adjournment: Dan Kjonagaard adjourned the meeting 9:25 p.m. reminding us that the next regular meeting is **July 27, 2010 at 7:30 p.m. at OAK GROVE MIDDLE SCHOOL LIBRARY**

Respectfully submitted,
Janet Mulder, Secretary